

CHARTER REVIEW COMMISSION
DECEMBER 5, 2005

CHARTER COMMISSION: District 1 - Richard Harris
 District 2 - Linda Dietz
 John Horan
 Sidney Miller
 District 3 - Grant Maloy
 Pamela Ohab
 Chairman Ben Tucker
 District 4 - Larry Furlong (6:20 p.m.)
 Earl McMullen
 Jimmy Ross
 District 5 - Ashley Johnson
 Jeff Triplett
 Vice Chairman Egerton van
 den Berg

ABSENT: District 1 Tom Boyko
 Jane Hammontree

ATTENDEES: County Manager Kevin Grace
 Deputy County Manager Don Fisher
 County Attorney Robert McMillan
 Chief Deputy Clerk Bob Lewis
 Attorney Alison Yurko
 Mike Ertel, Supervisor of Elections
 Lisa Spriggs, Fiscal Services Director
 Carylton Cohen, Deputy Clerk

The following is a non-verbatim transcript of the **CHARTER REVIEW COMMISSION MEETING**, held at 6:07 p.m. on Monday, December 5, 2005, in Room 3024 of the Seminole County Services Building at Sanford, Florida.

Chairman Tucker announced that Mr. Boyko is absent, but will be at the next meeting. He said he was aware that Ms. Hammontree would be absent, but he had not heard from Mr. Furlong.

Grant Maloy gave the Invocation and led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Horan corrected the minutes of November 7, 2005, as follows: Bottom of page 6 to read, "The issue is now being considered by the Court of Appeals." Page 7, corrected three

sentences to read, (1) "The 18th Judicial circuit has invalidated that on strictly legal grounds which included that the amendment itself violated the single subject prohibition that exists in the charter." (2) "The CRC is not encumbered by that same restraint as it has the ability to address this issue in a more encyclopedic way." (3) "If the CRC addresses this now, then the BCC will not end up in a situation where the 5th District Court of Appeals litigation comes out with a decision on the amendment that the BCC won't be able to fix."

Chairman Tucker referred to page 15, third paragraph, and changed the word "mustard" to "muster."

Mr. Miller referred to the top of page 19 and expressed he did not make the statement regarding the 27th amendment. Mr. Maloy stated he might have made that statement and corrected it to read, "Mr. Maloy stated the 27th amendment prevents the Congress from voting on increasing their own pay in that session."

Chairman Tucker stated that without objections, the **minutes of November 7, 2005, stand approved as amended.**

**REVIEW OF CRC ACTIONS AT
NOVEMBER MEETING**

Mr. Grace reviewed information (copy received and filed in agenda packet) he submitted (Summary of Proposed Amendments to County Charter Received from Charter Review Committee Members) as a result of the last meeting. He advised that since the last meeting, there has been one additional submittal to him before tonight and that was Ms. Johnson's proposal regarding the Audit Committee (copy received and filed). He further advised that Mr. Ross gave him two items this evening and he made copies of those.

Mr. Tucker referred to Item 7.a. and asked if anyone wished to discuss repealing the Rural Boundary and Rural Area amendment passed in 2004. He said he thinks it is fairly clear that the Charter Commission can move forward on this if the Commission wants to.

Vice Chairman van den Berg stated he read in the letter from the BCC Chairman that the Board would prefer the Charter Commission doing something else. Whereupon, Chairman Tucker said it should be abundantly clear that the Charter Commission has the authority to do this if it wants to and does not have to ask permission to go forward. He said the BCC made that clear also.

Mr. Ross stated he put in Item 5 (transfer of duties of the Clerk to the County Manager) as a proposal because he thinks it is proper that the County Commission have some control and direction over its money matters, and he thinks it is deserving of consideration and should be debated. It just seems to him that the BCC has no control, direction or authority at all over its financial books. If he has stated that incorrectly, then he can be corrected.

Mr. Miller stated that's about all he has heard also, and he has heard input saying there isn't adequate control of the budget on the part of the Board of County Commissioners. He said he has not heard from the other side of the issue. He asked if anyone was present who could speak to the other side of the issue.

Mr. Grace said one of the ideas was to determine if there was enough interest to take an item like this and move it forward, and that would be when you would bring in the experts.

Whereupon, Mr. Tucker said this is probably the prime subject of the group. He said there is plenty of interest, and the Charter Commission is going to hear this issue in whatever form it comes out, whether elected or appointed.

Mr. Grace said in fairness to the Clerk, no one was prepared to come tonight and make a presentation tonight.

Mr. Horan stated if all they are going to do is decide if they want to go forward with that issue, that is fine and he thinks that is what the Commission should do at this point. He said Mr. van den Berg has prepared a memo (copy received and filed) to all the members that they just received tonight and he thinks they need time to digest that and time to consider what the legal ramifications are if they are going to do something like this. He understands there are a number of different ways that County Charters have addressed this particular issue in terms of changing it. When changing this under the Florida Constitution, there are basically two sections that come into play. Also, something might be done through special legislation. He thinks all those things need to be digested and the Commission probably needs to get the attorney to work on some of the legal issues involved. He said he is not sure how much farther they can go tonight on this issue.

Mr. Tucker said basically it boils down to appointed versus an elected comptroller. The Clerk now is elected and the Clerk appoints a comptroller, and that is what historically happens in Seminole County. Orange County has an elected comptroller and they split that off as a separate position. This was the discussion the Charter Commission had in 1999 and 1993 and it came down to not whether or not there should be a separate comptroller, but mainly the dissension was whether the position

should be elected or not and be appointed by the County Commission or the County Administrator. It was also discussed who the comptroller would have authority over--over the Board of County Commissioners and its budget or should it extend to the Constitutional Officers or other than the Constitutional Officers that are quasi-county groups. Discussion ensued.

Mr. Horan stated as far as the appointed versus elected issue, he understands that it could be done two different ways under the State Constitution if they do this through the Charter amendment. He said if the Charter Commission does this under the Charter amendment, it would not be to have an elected official. He understands the way to have an elected official would be to do this under a different division of the Florida Constitution. He said the Charter Commission cannot by Charter amendment create another elected office. He understands that to have an elected comptroller, it would have to be done by special legislation.

Vice Chairman van den Berg said he thinks there are several mutually exclusive things that might be done to improve the structure. He said having a comptroller, elected or appointed, would be the ultimate deal on this side, but he can think of several variations. He said one example might be to leave the comptroller functions with the Clerk. He noted that the comptroller is also designated by law as county auditor of the county funds and that troubles him more than the fact the Clerk controls the county funds. Other examples are that the Charter Commission could move the audit functions out of the Clerk's Office to the County Manager or BCC; they could create a committee within the Clerk's Office that would have some representation selected by the County who would review certain

things and give advice to the Clerk; or they could do the same thing with the County Manager. He said he has also looked at the investment policy and the custody of the County investments; and he thinks a good argument could be made that there is a need for some investment advisory function that might or might not be consolidated with the audit function. He sees that the Charter Commission should look at a lot of different things before they make a decision or recommendation. He thinks it would be fair and productive to list things like that and then give everyone a chance to come back in January or February and debate the pros and the cons.

Mr. Horan stated Orange County accomplished what they did through special legislation. He understands that exercising the provisions of Article 5 of the State Constitution is the only way to have an elected comptroller. He thinks this Charter Commission can do something better than that by Charter amendment by going somewhere between the extremes as Mr. van den Berg said. He stated when you look at the various functions of the Clerk of the Court, you can parcel out those things that are more effectively done by a different type of body, person or different structure without radically changing the operations of the Clerk's Office as they are now. He agreed with Mr. van den Berg to see if they can list their options and next to those options, question can they be done legally or not and then discuss those.

Chairman Tucker said he does not feel comfortable saying beforehand the Charter Commission can or cannot do this legally until they look at it and say this management needs to be this way. He thinks if management decides this is the best method, and the people enforce it, the legal system can find a way to

say it's right. He doesn't want them to get into the position of saying that legally, they can't do this. He said they can't flaunt this in someone's face either, but it is going to be a precedent to get a good system done.

Mr. Ross said the language he used was the same used before and he followed the Brevard County Charter that was then in existence. He read the Attorney General's Opinion 8541 which states, "may the Board of County Commissioners of the county charter, pursuant to the office of county charter law, Part 4, Chapter 125, Florida Statutes, appoint a clerk to the Board, someone other than the Clerk of Circuit Court." He said he doesn't know exactly what all that means or what Clerk it's talking about, but if it's the Clerk of the Court, his answer is yes.

Attorney Yurko summarized her findings to date on this.

Whereupon, Mr. Tucker said Bob Lewis of the Clerk's Office is here and, if there are no objections, he would like to hear what Attorney Yurko has to say and then hear briefly from Mr. Lewis. There were **no objections**.

Attorney Yurko advised there are a couple of charters in the members' notebooks where these changes have been made and she said the members might want to look at those between now and the next meeting. She stated she had a brief meeting with Carol Foglesong at the Orange County's Comptroller Office who shared that Orange County passed the Special Act under Article 5 of the State Constitution which basically bifurcates the Clerk's duties into being Clerk of the Circuit Court and an elected comptroller that takes care of the county's auditing, records, money and that sort of thing. She said this Commission doesn't need to worry about Article 5 because it is supplemental to another

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provision in the State Constitution which is Article 8, which specifically says, "when not otherwise provided by county charter or special law approved by a vote of the electors, the Clerk of the Circuit Court shall be the ex-officio clerk to the Board of County Commissioners, auditor, recorder and custodian of all county funds." She said this means that by county charter, these duties of the Clerk can be spun off and the function allowed to go to someone else. She will have to check by the next meeting if that person has to be elected or not. There is clear legal authority to spin those duties off, and a number of counties have done that. She said Osceola and Volusia counties have done that also, and she believes it was by charter. She said the Commission members might want to take a look at those counties' charters.

Bob Lewis stated the Legislature created two comptrollers in 1972 and one of those (in Escambia County) was discontinued by charter action subsequently. He said he does not believe the Charter Commission would have to go back to special legislation, but they can go ahead and create another elected official by the charter.

Referring to Vice Chairman van den Berg's memo, Mr. Lewis said there are a number of duties and tasks that the Clerk performs and they probably want to have Clerk Maryanne Morse present to ask specifically how the office is handling the tasks.

Mr. Miller asked if there were any kind of threats to income or jobs inherent in what they are doing. Whereupon, Mr. Lewis said it would not affect the Clerk's compensation. Chairman Tucker said he assumes the reimbursement for the comptroller's office would be established in the charter.

Mr. Ross said he specifically stated in his proposal that the present staff of the County Clerk of the Circuit Court be retained to do the functions of that bureaucracy which already exists and, if any jobs were to be lost as a result of this action, that it be done through normal attrition and that no one is to be dismissed.

Mr. Furlong said failing something as specific as that, he feels certain that several people's jobs and/or budget controls would change, although it doesn't necessarily mean the jobs would go away.

Attorney Yurko explained what happened in Escambia County that later repealed the Special Act that created the elected comptroller and went back to their original system under the Clerk. She stated Ms. Foglesong said she thought the Orange County representatives would be happy to appear again before the Charter Commission.

Mr. Furlong asked doesn't the Orange County Comptroller handle more than just the financial records, but is the keeper of all the records.

Chairman Tucker answered yes, that office does recording of documents also.

Attorney Yurko said that is correct and that is consistent with the Constitution. She said in Orange County, the office is a dual function.

Mr. Furlong and Vice Chairman van den Berg discussed with Mr. Lewis the number of employees who work in these functions in the Clerk's Office and how many total employees are in the Clerk's Office.

Vice Chairman van den Berg said he, personally, would not recommend the Orange County system. Discussion ensued.

Mr. Ross stated he was surprised about the language he heard read. He said the documents he thought the Clerk would continue to keep were the financial records and no others. He thought this would only concern the Clerk's financial responsibilities to the BCC. That responsibility is one thing, but he doesn't think the Clerk's responsibilities for all the records she maintains can be taken away. Whereupon, Chairman Tucker said that responsibility can be taken away and has been in other areas, but it doesn't have to be.

Mr. Horan clarified he is talking about those particular duties that relate to the Clerk functioning as the ex-officio accountant and auditor for the Board of County Commissioners. He has no interest in transferring document issues or other issues that relate to the Clerk's Office to some other person or office. He is talking about taking the Clerk of Court acting as a financial manager and auditor for the County Commission with County funds and moving that function up into the corporate model that now exists, which is that the County, County Manager and Board of County Commissioners should have control of its own functions.

Mr. Miller asked if there is a point of transfer of responsibilities that the Clerk of Circuit Court agrees should go to the County.

Mr. Lewis stated he would have Ms. Morse answer that question.

Chairman Tucker said there are a number of positions and activities that nobody wants and they fall to the Clerk. He said the Judges and the Clerk have discussed that.

Mr. Miller stated things would get really easier if there were a point of agreement.

Upon inquiry by Chairman Tucker on the procedure to take, Vice Chairman van den Berg stated they are talking about what functions, if any, should be transferred from the Clerk and, if any, to whom. He said he would want to hear from the Seminole County Clerk, but he doesn't think he would be enlightened by hearing from the Orange County Clerk or her staff.

Mr. Ross stated he submitted his proposal that asked that certain functions be transferred and it was to be financial only. If this goes beyond financial, then he would withdraw his proposal. He said he had no idea that the Charter Commission would consider going further than financial functions. If it does, he thinks there needs to be a lot further discussion on what impact it has and where these functions are going to take place.

Vice Chairman van den Berg stated he thinks the Chairman is trying to get to the point of having a consensus about what's worth talking about. He thinks Mr. Ross is too early in the game.

Chairman Tucker said, procedurally, the Commission will perhaps look at January to continue discussion of this item.

Attorney Yurko said she would be ready with her research. She stated she would check into the issue of whether the person could be elected by charter and she will look into whether you could unbundle those five things the Constitution speaks of--the function of the ex-officio Clerk to the BCC.

Chairman Tucker said that will be the primary topic of discussion for the January meeting.

Mr. Harris asked if the Charter Commission could ask the Clerk to provide them with a summary of all the duties so they understand more how the functions are currently done.

Mr. Lewis said the Clerk's Office would be able to provide an organizational chart in January, and he will do the best he can to answer questions.

Mr. Miller also asked if it could be possible to have some representatives from the County and Clerk of Court to sit down for a couple of hours and talk about what might happen as an end result of what they are doing. He said if the County and Clerk come up with what the organization ought to look like and what the division of responsibilities is and they both agree to it, then all the Charter Commission has is a charge on how to figure out how to make it happen the best way for both parties.

Vice Chairman van den Berg stated he would like to add Mr. Grace to the list of those presenting. Chairman Tucker advised that Mr. Grace would not be with the County in January.

Mr. Grace stated he had planned on leaving a memo of report to this group as his recommendation of what he believes to be the better structure. He said DCM Don Fisher would probably be presenting his report, and the Charter Commission may want to hear from a County Commissioner.

Mr. Horan referred to page 2 of the Memorandum (copy received and filed) from Vice Chairman van den Berg and asked for clarification on the alternatives for the Clerk's functions and the discussion in the memo on an investment advisory committee.

Vice Chairman van den Berg explained those are separate issues. He also stated that, without hearing all the input, he is not inclined to take the comptroller functions from the Clerk, but he is inclined to remove the audit functions and he sees a need to beef up the investment function. He said that could be a single committee. He explained that, to him, the

audit functions do not belong in the hands of the person who's controlling the purse; it should be the person who is looking at the purse.

Discussion ensued by Mr. Furlong about Vice Chairman van den Berg's memorandum and the existing auditing process.

Ms. Johnson discussed when doing her research for the audit committee, the AICPA has listed for governmental audits 26 common engagement deficiencies. The accounting profession has said that a strongly functioning audit committee can help monitor and correct deficiencies in the audit process and with communication of those deficiencies which need correction. She explained, for example, not referring to Seminole County or any other county, that what is seen in a CAFR are things that were eventually decided to go in and there could be issues that were raised but are not reflected in the document. There could be other concerns that were not documented or appropriately communicated. She said something she might consider important as a citizen may not have been considered important to the powers of authority at that time. She believes an appropriately functioning audit committee would handle a lot of the concerns raised about independence, oversight and internal controls that she keeps hearing about.

Upon inquiry by Mr. Furlong, Ms. Johnson stated that most audit committees have members with some financial background.

During discussion, Vice Chairman van den Berg stated he is favorably impressed with the people in the Clerk's Office who do the audits and he thinks their work is very good. Also Seminole County and the Clerk have continuously for the past 23 years received the Municipal Finance Officers Association Award of Merit for Governmental Accounting. He said they are not dealing

with something not well-handled and well-prepared, but they are not to put too much in that book (the CAFR) because it is not picking up the rocks that the internal auditors do.

Upon inquiry by Mr. Miller, Ms. Johnson said the audit committee members would not be members of the Clerk's Office or members related to the external auditors.

Upon inquiry by Mr. Furlong, Mr. Grace advised the Board of County Commissioners actually selects and hires the independent auditor.

Mr. Johnson stated she understands that the Florida Statutes requires an audit committee amendment to select the external auditors.

Chairman Tucker reviewed the proposed meeting schedule for discussion of topics to be scheduled.

Under discussion, Mr. Ross stated there are some matters in Article 2 of the Charter that need correcting. He proposed that a subcommittee be appointed and that he, Mr. Maloy, and Mr. Furlong be appointed to the subcommittee to review those matters, correct and bring them before the Charter Commission. He advised Chairman Tucker that some of them are housekeeping items and some are not. He reviewed some examples (copy of information was received and filed).

Mr. Furlong stated he would have to decline to serve on the subcommittee due to the hardship of getting to the meetings.

Mr. Maloy stated he didn't have a problem looking into these, but he didn't want to "spin the wheels." He wants to make sure before the subcommittee is formed that the Charter Commission wishes to look into these matters.

Ms. Dietz agreed with Mr. Maloy.

Chairman Tucker stated he would rather deal with the issues and, at some point later on, look at the housekeeping items.

Mr. Horan stated whether they are housekeeping matters or not, if Mr. Ross has specific amendments that he thinks Attorney Yurko could draft one specific amendment or several amendments for them to consider, he thinks the Charter Commission could consider those, but he doesn't think they need a special subcommittee. He suggested having the amendment language drafted by Ms. Yurko and the Charter Commission will consider it.

Motion by Mr. Ross to be allowed to read what the law is on the matter about the officers, in particular about the County Manager and his duties.

Chairman Tucker called for a second to the motion without response, whereby the **motion died** for the lack of a second.

Chairman Tucker advised that in January, the Charter Commission will hear the eminent domain and salary issues.

Attorney Yurko stated, in response to Mr. Maloy, she has drafted language with respect to the public hearings. She said she has been working on the property rights language. She has not completed that yet but is getting closer. She feels comfortable that she will have something ready by January. She asked for guidance on the salary issue and said she would speak with Mr. Grace about that. She said that could be done by January as well.

Attorney Yurko said the eminent domain issue could be tricky. She discussed some findings from her research.

Vice Chairman van den Berg asked if Attorney Yurko is supposed to do this in such a way that it would limit the cities of Casselberry and Longwood. Whereupon, she said that is

something they need to talk about because that is a huge issue. Discussion ensued. She asked for Board direction as to how this would apply to municipalities.

Mr. Ross stated he talked to his City Administrator and he said absolutely no word is to be applicable to the municipalities and they will fight that "tooth and nail," which means it may or may not pass if it goes to the voters. Whereupon, Attorney Yurko said the downside to that is if they don't include municipalities, are they inviting annexation deals, economic development competitions, etc.

Upon inquiry by Mr. Furlong, Attorney Yurko discussed the blight issue.

Motion by Mr. van den Berg, seconded by Mr. Maloy, that Attorney Yurko be asked to include the municipalities in the eminent domain issue.

Under discussion, Mr. Maloy said, to him, this is a protection of fundamental constitutional rights for all the citizens whether you're in the county or city. He definitely thinks they want to protect people's property rights.

Mr. Harris inquired about a case now in Riviera Beach where the city is trying to take over several thousand homes to redevelop a harbor and put in a marina. He said that is the kind of thing that catches your attention. He said his vote would be in favor of the motion.

Chairman Tucker said he thinks this is a protection being offered to the citizens as a whole. He would hate to see protection offered to 50% of those living in the county and not offered to 50% of the citizens living in the cities.

Mr. Furlong said he has concern with the Charter Commission acting in the role of telling the cities how to run their cities.

Attorney Yurko said she has not looked at the issue of whether the Charter Commission has the legal authority to include the cities. She said the Charter Commission may want to invite the cities to come talk about this.

Mr. Furlong said he would want to hear from the cities.

Mr. Triplett stated he had the pleasure of serving on the Downtown Sanford CRA and he thinks they have to be very careful, because of the historical impact they run into with people that take advantage of not taking care of their buildings or not doing what needs to be done. It has been very significant to the CRA in putting the pressure on people by the threat.

Mr. Horan said he is looking forward to the amendment that is going to be drafted by Attorney Yurko. He thinks it should include the cities and try to accommodate the interest of those who want to get rid of serious blight but not be violative to general law and existing Florida Statutes, etc.

Vice Chairman van den Berg **called the question.**

A **roll call vote** was taken with Mr. Horan, Mr. McMullen, Ms. Dietz, Mr. Miller, Ms. Johnson, Mr. Harris, Mr. van den Berg, Mr. Tucker, Mr. Maloy, and Ms. Ohab voting AYE.

Mr. Ross, Mr. Furlong and Mr. Triplett voted NAY.

Chairman Tucker asked if the pleasure of the Board was to ask representatives of the cities to be in attendance at the meeting to discuss this issue.

Upon inquiry by Mr. Maloy, Chairman Tucker said he thinks they should limit it to a representative of the elected body and not the city managers.

Mr. Maloy stated he would like to have the Citizens for Constitutional Property Rights from Orange County speak, who are the local advocates for property rights.

Whereupon, Chairman Tucker said he thinks the issue is cities versus cities and county. Discussion ensued.

Chairman Tucker said, without objections, he will call all the mayors of the seven cities and issue an invitation for them to be in attendance at the January 9, 2006, meeting of the Charter Commission or they can speak at the public hearing.

Mr. Triplett stated the Commission just voted to include the cities so their representatives coming to speak is not going to change anything, unless someone is going to rescind his motion.

Chairman Tucker said there is a parliamentary procedure that allows that.

Vice Chairman van den Berg said this is just a first step.

Mr. Horan stated he believes the Coalition for Property Rights acts as a clearinghouse for a lot of the proposed amendments and the Chairman might want to contact Doug Doudney of that group.

Attorney Yurko stated she had hoped that having the municipal representatives coming to the meeting would be after the Charter Commission had the opportunity to sort out whether they can apply eminent domain countywide. She is concerned with having the representatives attend at the same meeting, so maybe the sequence needs to be broken up. She said she would like to have the opportunity, now that she has direction from the Charter Commission to do this countywide, to step back and get a comfort level the Commission can do that and, if they can't, it seems a little silly to have all the cities represented.

Chairman Tucker said the Charter Commission will discuss this in January and then go from there.

Mr. Horan advised Attorney Yurko that they do want a specific amendment on the salaries of the BCC issue. He read the Minutes of November 7, 2005, page 20, to review same.

Mr. Maloy stated he had a couple issues to bring up; one is term limits and others for the future are ethics and taxation.

Chairman Tucker said after taking the two items for discussion in January, then the Commission will have two or three other items that could be brought up and begin discussions.

Ms. Johnson reminded the Chairman that she also has the proposed audit committee item. Whereupon, Chairman Tucker said to wait and include that with the Clerk's item.

Mr. Ross advised he had two items which he submitted to Mr. Grace, who made copies and returned them to Mr. Ross. He said he didn't think about distributing them tonight. He returned those to Mr. Grace and said he would like them distributed for a later meeting as the January meeting is already filled.

Chairman Tucker reviewed that in January, the topics will be eminent domain and salaries for certain. They can have two or three items following that if time permits. If not, they will probably go into the March meeting. The Clerk's Office is scheduled for the February, 2006, meeting, and that will be the primary issue. The Commission also has term limits, ethics and taxation (Taxpayers' Bill of Rights) issues that will follow as time permits, but may have to be taken up in March.

Mr. Furlong questioned what precedence was set for handling new items. Discussion ensued. Mr. Furlong said his point is are there enough people who want to hear the issue of term

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limits to go forward with it. He said he doesn't want to hear the issue.

Motion by Mr. Horan, seconded by Mr. Harris, to not consider a specific amendment for term limits.

Under discussion, Mr. Maloy said he thinks this a legitimate issue that, whether the Charter Commission agrees or disagrees, the citizens should have a right to vote.

Mr. Ross stated he believes any member of this body has a right to submit anything he or she wants, and they have a duty to listen. They may not agree, but unless they hear all the facts concerning any subject, they really don't know everything. He agreed with Mr. Maloy that this matter deserves discussion and said Mr. Maloy has a right to bring it forward, and they can vote him down if they wish to do so.

Mr. McMullen stated Mr. Maloy went through a lot of trouble to gather the information and he doesn't see any problem in looking over his stats, and he thinks anyone who doesn't want to look at it is closed-minded.

A **roll call vote** was taken at this time with Mr. Horan, Ms. Dietz, Mr. Miller, Mr. Harris, Mr. Tucker, and Mr. Furlong voting AYE.

Mr. McMullen, Ms. Johnson, Mr. Ross, Mr. van den Berg, Mr. Maloy, Ms. Ohab, and Mr. Triplett voted NAY.

Chairman Tucker announced that the **motion failed** for the lack of a majority vote.

Under discussion, Mr. Maloy said the Chairman had talked about ideas for future meetings and these were ones he was going to bring up. He has done some research and has some ideas, but he is not prepared today to introduce them.

Upon inquiry by Chairman Tucker, Vice Chairman van den Berg said he thinks they should wait till they see the other two proposals in writing from Mr. Maloy before voting on them.

Chairman Tucker advised of another item to put on the table, which arose out of discussions between the City/County Advisory Committee in reference to a water authority and the water authority being proposed by the St. Johns River Water Management District. He said the question came up as to whether or not there will be an appointed water authority that would have the ability to set rates and/or taxes.

Mr. Furlong asked are the ideas going to be posed to the body to ask if the majority wish to hear more or not. Chairman Tucker said apparently not.

Attorney Yurko suggested, since the Commission has deadlines and hearings, to have a cut-off date for items being considered because she doesn't want to get caught scrambling around at the last minute. Discussion ensued.

Mr. Grace stated he assumed the Commission would begin the public hearings in June.

Vice Chairman van den Berg asked if a situation arose where the Commission had sharply divided views on an issue, are members not present allowed to vote by telephone.

County Attorney Robert McMillan answered no, members would have to be physically present to vote.

Chairman Tucker reviewed the items for the next scheduled meetings. He said in March, they will pick up whatever is left over and anything else that comes up.

Mr. Horan said the item for BCC-initiated Charter Amendment procedures can wait until the March meeting.

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Mr. Grace suggested the Commission may want to go ahead and make their decision on whether or not to move forward the audit committee.

Whereupon, Chairman Tucker asked if the members wished to include this item in the February meeting. There were **no objections** to including the audit committee proposal in the February meeting.

Ms. Johnson stated even if nothing is done with the Clerk's item, the audit committee will be a stand-alone item.

Chairman Tucker adjourned the meeting at 8:15 p.m., this same date.

PROPOSED CHARTER AMENDMENT

- Proposal:** That the Seminole County Charter provide for a penalty for any commissioner who violates the provisions of the non-interference clause that is contained in the charter.
- Background:** It was brought to my attention that a recent case of possible interference took place when, one learns, directions were given to stop work that was then taking place.
- a. It should be noted that if a county commissioner believes that certain work in progress should be stopped, he or she should consult with the county manager.
- b. Two county commissioners informed me that interference may have taken place in the past.
- Information:**
- a. In the city charter of the City of Longwood there are provisions that prohibit interference. This does not mean that inquiries may not be made.
- b. If a city commissioner violates the interference mandate of the Longwood charter, the penalty is forfeiture of office.
- (1) It is known that at least on one occasion a city commissioner in Longwood forfeited her office by reason of interference.
- c. Two county commissioners with whom I spoke have no problem with their being a penalty for violating the interference clause of the present charter.
- Proposed wording:** A member charged by a majority of the Board of County Commissioners, excluding the member(s) being charged, Longwood Charter: with conduct constituting grounds for forfeiture of his or her office shall be notified in writing of said charges and given seven (7) working days in which to request a public hearing on said charges. Should the member charged fail to request a public hearing within seven (7) working days of being charged he or she ~~shall~~ shall automatically forfeit his or her office.
- Upon request of a public hearing, a notice of such public hearing shall be published in one or more public newspapers of general circulation at least

seven (7) days in advance of the hearing. Decisions made by the Board of County Commissioners under this section after a public hearing shall be subject to review by the Circuit Court of Seminole County, Florida.

Failure to request a public hearing within seven (7) days after being charged shall constitute a waiver of all rights to public hearing and/or review by any court.

Effective date: On passage.

Submitted by:



JIMMY ROSS

PROPOSED CHARTER AMENDMENT

Proposal: That the following language, appropriately numbered, be inserted in the Seminole County Charter

ACTION REQUIRING AN ORDINANCE

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the County Commission shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Adopts the annual operating and capital budgets and any long-term capital or financial program.
- (4) Obligates payment of money beyond the end of a fiscal year, e.g. a contract;
- (5) Grant, renew or extend a franchise;
- (6) Regulate the rate charged for its services by a public utility;
- (7) Authorize the borrowing of money;
- (8) Convey or lease or authorize the conveyance or lease of any lands of the county;
- (9) Lease or purchase of real property;
- (10) Imposes a fee for services rendered by the county;
- (11) Affect zoning matters related thereto as stated in F.S. 125.66
- (12) Amend or repeal any ordinance previously adopted. Unless stated elsewhere in this charter or by general law, acts other than those referred to in the preceding sentences may be done either by ordinance or resolution

ORDINANCES AND RESOLUTIONS

All proposed ordinances and resolutions shall conform to form, procedure of adoption and ratification as provided by State Law.

EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property or the public peace, the County Commission may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew, or extend a franchise, affect zoning as stated in F.S. 125.66, or set service or user charges for any county service. F.S. 125.66 prohibits emergency ordinances that affect zoning.

a. Form. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a ~~preamble~~ preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms; and the emergency ordinance shall state that the immediate enactment of said ordinance is necessary.

b. Procedures. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. An affirmative vote of at least four commissioners shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances.

c. Effective date. Emergency ordinances shall become effective as stated in F.S. 125.66.

d. Repeal. Every emergency ordinance shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified. An emergency ordinance may also be repealed by adoption of emergency ordinances.

Information:

- (1) In America, it is accepted that all power belongs to the people, and the only power that government has is that which the people delegate.
- (2) Quite a few years ago a noted individual stated (Churchill as I recall) that war was so important that its conduct must not be left to the generals. Analogous to this is that government is so important that it must not be left to those whom we elect. Therefore, it follows that the best government is the government that listens to the people and considers the comments and recommendations offered during the public hearing process.
- (3) All ordinances require public hearings. Resolutions do not. It is for these reasons alone that the subjects listed above should be done by ordinance. With respect to administrative codes:

a. The public has an interest in knowing the organizational structure of its government, and if changes, additions, or deletions to the structure are to be made, the public should have the right to appear at a public hearing and give those whom we elect the benefit of our knowledge, expertise, our disapproval, or acquiescence.

(1) It is simply not sufficient, in my judgment, to trust those whom we elect will always do what is right.

(4) The other reasons listed for requiring an ordinance are, in the main, associated with money matters in some form or fashion. It just makes plain sense that the public should know when its money is being obligated for expenditure. Especially, the people have a right, in my opinion to speak if public money is being obligated beyond the end of a fiscal year. Otherwise, this money will have never gone through the public hearing requirement!

a. On many occasions, the vast majority of people would probably agree with a recommended course of action. However, there are other occasions when there might be great disagreement. In ~~the~~ ~~even~~ any event, those whom we elect have a duty to listen to the public before making expenditures. An ordinance guarantees that the public may speak. A resolution does not.

(5) With respect to emergency ordinances, I submit that people have an absolute right to decide under what conditions emergency ordinances may be passed. The people's representatives in the State Legislature state in F.S. 125.66(3):

"(3) The emergency enactment procedure shall be as follows: The board of county commissioners at any regular or special meeting may enact or amend requirements of subsection (2)...."

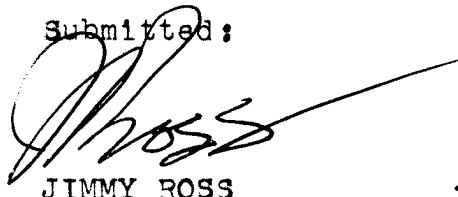
a. The reasons recommended, i.e., "affecting life, health, property or the public peace" seem to be sufficient.

(1) This matter is not preempted by the State or prohibited by the Legislature ~~or~~ the Constitution.

b. F.S. 126.66 states the 4-vote requirement.

Effective date; On passage.

Submitted:



JIMMY ROSS

3 12-5-05

Kissimmee bows to outcry, kills lakefront plan

By SUSAN JACOBSON
SENTINEL STAFF WRITER

10-19-05

KISSIMMEE — Condominiums aren't coming to the city's lakefront after all.

Responding to an outcry from about 200 people who packed City Commission chambers Tuesday night — including some 30 who picketed outside before the meeting — commissioners put the kibosh on a plan to redevelop Kissimmee's lakefront.

Downtown Business Association president Tom Lanier said he is ecstatic that the commission, in a 4-1 vote, booted a development team that included Church Street Station developer Bob Snow. The vote rejected his "Kissimmee Landing" team, which has been working on a vision for lakefront development for nearly a year.

"It was driven by money and the developers," said Lanier, who owns an antiques shop on Broadway. "We want it driven by the citizens."

PLEASE SEE **KISSIMMEE, B7**

The city Community Redevelopment Agency solicited proposals, and the CRA and a selection committee this summer chose one, FaulknerUSA of Texas, without hearing from the public. Snow and FaulknerUSA joined forces in early September.

Residents and commission-